

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Trang Thi Kirkland,)
Plaintiff,) C/A No. 2:09-1707-MBS-BM
vs.)
Magic Nail, LLC; Magic Nail Spa, LLC;)
Magic Nail at Northwoods, LLC,)
Defendants.)

)

O R D E R

Plaintiff Trang Thi Kirkland is a former employee of a Magic Nail salon at Northwoods Mall in North Charleston, South Carolina. Plaintiff filed the within action on June 26, 2009, alleging claims under the Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq.; the Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621-634; and the Family and Medical Leave Act (FMLA), 29 U.S.C. §§ 2601, et seq. Defendants were served in July and October 2009, but filed no responsive pleading. Plaintiff filed a motion for entry of default on March 3, 2010. The Clerk of Court entered default on March 9, 2010. See Fed. R. Civ. P. 55(a).

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bristow Marchant for pretrial handling. On March 16, 2010, Defendants filed a motion to set aside default and a proposed answer. Plaintiff filed no objection to the Defendants' motion. On April 15, 2010, the Magistrate Judge issued a Report and Recommendation in which he found good cause under the circumstances to justify setting aside the entry of default. Accordingly, the Magistrate Judge recommended that Defendants' motion to set aside default be granted and that Defendants be provided twenty days from the date of any order adopting the Report and Recommendation to file a responsive pleading. No party filed objections

to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has carefully reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. Defendants’ motion to set aside entry of default (Entry 9) is **granted**. Defendants shall file a responsive pleading within twenty days of the date of entry of this order.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

May 4, 2010.